

BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
Against: )

ROSCOE B. MARTIN, M.D. )  
Certificate No. A-39017 )

No. 02-96-68630

Respondent. )  
\_\_\_\_\_ )

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the  
Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on May 28, 1997.

IT IS OR ORDERED April 28, 1997.

By: \_\_\_\_\_

ANABEL ANDERSON IMBERT, M.D.  
President  
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 GAIL M. HEPPELL,  
Supervising Deputy Attorney General  
3 FRED A. SLIMP II  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P. O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 324-7861

6 Attorneys for Complainant  
7

8 **BEFORE THE**  
9 **DIVISION OF MEDICAL QUALITY**  
10 **MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation) Case No. 02-96-68630  
Against: )

12 **ROSCOE BERNARD MARTIN, M.D.** )  
13 8052 Indian Creek Drive )  
Orangevale, CA 95662 )

**STIPULATED SETTLEMENT**  
**AND**  
**DISCIPLINARY ORDER**

14 Physician's and Surgeon's )  
15 Certificate No. A-39017, )  
16 )

Respondent.)  
17

18 **IT IS HEREBY STIPULATED AND AGREED** by and between the  
19 parties to the above-entitled proceedings that the following  
20 matters are true:

21 1. An Accusation in case number 02-96-68630 was filed  
22 with the Division of Medical Quality, of the Medical Board of  
23 California Department of Consumer Affairs (the "Division") on  
24 December 30, 1996, and is currently pending against Roscoe Bernard  
25 Martin, M.D. ("respondent").

26 2. The Accusation, together with all statutorily  
27

1 required documents, was duly served on the respondent on or about  
2 December 30, 1996, and respondent filed a Notice of Defense  
3 contesting the Accusation on or about January 13, 1997. A copy of  
4 Accusation No. 02-96-68630 is attached as Exhibit "A" and hereby  
5 incorporated by reference as if fully set forth.

6 3. The Complainant, Ronald Joseph, is the Executive  
7 Director of the Medical Board of California and brought this action  
8 solely in his official capacity. The Complainant is represented by  
9 the Attorney General of California, Daniel E. Lungren, by and  
10 through Deputy Attorney General Fred A. Slimp II.

11 4. The respondent is represented in this matter by  
12 Roosevelt O'Neal, Jr., Esq., whose address is 7300 Lincolnshire,  
13 Suite 200, Sacramento, California 95823.

14 5. The respondent and his attorney have fully discussed  
15 the charges contained in Accusation number 02-96-68630, and the  
16 respondent has been fully advised regarding his legal rights and  
17 the effects of this stipulation.

18 6. At all times relevant herein, respondent has been  
19 licensed by the Medical Board of California under Physician's and  
20 Surgeon's Certificate No. A-39017.

21 7. Respondent understands the nature of the charges  
22 alleged in the Accusation and that, if proven at hearing, the  
23 charges and allegations would constitute cause for imposing  
24 discipline upon his certificate. Respondent is fully aware of his  
25 right to a hearing on the charges contained in the Accusation, his  
26 right to confront and cross-examine witnesses against him, his  
27

1 right to the use of subpoenas to compel the attendance of witnesses  
2 and the production of documents in both defense and mitigation of  
3 the charges, his right to reconsideration, appeal and any and all  
4 other rights accorded by the California Administrative Procedure  
5 Act and other applicable laws. Respondent knowingly, voluntarily  
6 and irrevocably waives and give up each of these rights.

7 8. Respondent admits the truth of each and every  
8 allegation of the Accusation No. 02-96-68630, and agrees that  
9 respondent has thereby subjected his certificate to disciplinary  
10 action. Respondent agrees to be bound by the Division's  
11 Disciplinary Order as set forth below.

12 9. Based on the foregoing admissions and stipulated  
13 matters, the parties agree that the Division shall, without further  
14 notice or formal proceeding, issue and enter the following order:  
15

16 **DISCIPLINARY ORDER**

17 **IT IS HEREBY ORDERED** that Physician's and Surgeon's  
18 Certificate number A-39017 issued to Roscoe Bernard Martin, M.D. is  
19 revoked. However, the revocation is stayed and respondent is  
20 placed on ~~p~~robation for three (3) years on the following terms and  
21 conditions. Within 15 days after the effective date of this  
22 decision the respondent shall provide the Division, or its  
23 designee, proof of service of a true copy of this decision on the  
24 Chief of Staff or the Chief Executive Officer at every hospital  
25 where privileges or membership are extended to respondent or where  
26 respondent is employed to practice medicine and on the Chief  
27

1 Executive Officer at every insurance carrier where malpractice  
2 insurance coverage is extended to respondent.

3 1. ACTUAL SUSPENSION As part of probation, respondent  
4 is suspended from the practice of medicine for thirty (30) days  
5 beginning the sixteenth (16th) day after the effective date of this  
6 decision.

7 2. COMMUNITY SERVICE- FREE SERVICES Within sixty (60) days  
8 of the completion of the suspension set forth in paragraph 1,  
9 above, respondent shall submit to the Division or its designee for  
10 its prior approval a community service program in which respondent  
11 shall provide free medical services on a regular basis to a  
12 community or charitable facility or agency for at least ten (10)  
13 hours a month for the first thirty (30) months of probation.

14 3. EDUCATION COURSE Within ninety (90) days of the  
15 effective date of this decision, and on an annual basis thereafter,  
16 respondent shall submit to the Division or its designee for its  
17 prior approval an educational program or course to be designated by  
18 the Division, which shall not be less than 40 hours per year, for  
19 each year of probation. This program shall be in addition to the  
20 Continuing Medical Education requirements for re-licensure.  
21 Following the completion of each course, the Division or its  
22 designee may administer an examination to test respondent's  
23 knowledge of the course. Respondent shall provide proof of  
24 attendance for 65 hours of continuing medical education of which 40  
25 hours were in satisfaction of this condition and were approved in  
26 advance by the Division or its designee.

1           4.     ETHICS COURSE           Within sixty (60) days of the  
2 effective date of this decision, respondent shall enroll in a  
3 course in Ethics approved in advance by the Division or its  
4 designee, and shall successfully complete the course during the  
5 first year of probation.

6           5.     CLINICAL TRAINING PROGRAM OR ORAL CLINICAL OR WRITTEN EXAM  
7 Within one hundred twenty (120) days of the effective date of this  
8 decision, respondent shall submit to the Division or its designee  
9 for its approval a clinical training or education program. The  
10 exact number of hours and specific content of the program shall be  
11 subject to the approval of the Division or its designee. Respondent  
12 shall successfully complete the training program and may be  
13 required to pass an examination administered by the Division or its  
14 designee related to the program's contents. If respondent has not  
15 submitted to the Division or its designee and received its approval  
16 on a clinical training or education program no later than one  
17 hundred twenty (120) days of the effective date of this decision,  
18 respondent shall take and pass an oral clinical exam no later than  
19 one hundred eighty (180) days of the effective date of this  
20 decision in a subject to be designated and administered by the  
21 Division, or its designee. If respondent fails the first  
22 examination, respondent shall be allowed to take and pass a second  
23 examination, which may consist of a written as well as an oral  
24 examination. The waiting period between the first and second  
25 examinations shall be at least three (3) months. If respondent  
26 fails to pass the first and second examination, respondent may take  
27

1 a third and final examination after waiting a period of one (1)  
2 year. Failure to pass the oral clinical examination within twenty-  
3 one (21) months after the effective date of this decision, if no  
4 clinical training or education program is approved by the Division  
5 or its designee, shall constitute a violation of probation. The  
6 respondent shall pay the costs of these examinations within ninety  
7 (90) days of the administration of each exam. If respondent fails  
8 the first examination, respondent shall be suspended from the  
9 practice of medicine until a repeat examination has been  
10 successfully passed, as evidenced by written notice to respondent  
11 from the Division or its designee.

12 6. MONITORING Within thirty (30) days of the effective  
13 date of this decision, respondent shall submit to the Division or  
14 its designee for its prior approval a plan of practice in which  
15 respondent's practice shall be monitored by another physician in  
16 respondent's field of practice, who shall provide periodic reports  
17 to the Division or its designee.

18 If the monitor resigns or is no longer available,  
19 respondent shall, within fifteen (15) days, move to have a new  
20 monitor appointed, through nomination by respondent and approval by  
21 the Division or its designee.

22 7. OBEY ALL LAWS Respondent shall obey all federal,  
23 state and local laws, all rules governing the practice of medicine  
24 in California, and remain in full compliance with any court ordered  
25 criminal probation, payments and other orders.

26 8. QUARTERLY REPORTS Respondent shall submit quarterly  
27

1 declarations under penalty of perjury on forms provided by the  
2 Division, stating whether there has been compliance with all the  
3 conditions of probation.

4           9.     PROBATION SURVEILLANCE PROGRAM COMPLIANCE     Respondent  
5 shall comply with the Division's probation surveillance program.  
6 Respondent shall, at all times, keep the Division informed of his  
7 addresses of business and residence which shall both serve as  
8 addresses of record.     Changes of such addresses shall be  
9 immediately communicated in writing to the Division.     Under no  
10 circumstances shall a post office box serve as an address of  
11 record.

12           Respondent shall also immediately inform the Division, in  
13 writing, of any travel to any areas outside the jurisdiction of  
14 California which lasts, or is contemplated to last, more than  
15 thirty (30) days.

16           10.    INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS  
17 DESIGNATED PHYSICIAN(S)     Respondent shall appear in person for  
18 interviews with the Division, its designee or its designated  
19 physician(s) upon request at various intervals and with reasonable  
20 notice.

21           11.    TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-  
22 PRACTICE     In the event respondent should leave California to reside  
23 or to practice outside the State or for any reason should  
24 respondent stop practicing medicine in California, respondent shall  
25 notify the Division or its designee in writing within ten (10) days  
26 of the dates of departure and return or the dates of non-practice  
27



1 within California. Non-practice is defined as any period of time  
2 exceeding thirty days in which respondent is not engaging in any  
3 activities defined in Sections 2051 and 2052 of the Business and  
4 Professions Code. Periods of temporary or permanent residence or  
5 practice outside California or of non-practice within California,  
6 as defined in this condition, will not apply to the reduction of  
7 the probationary period.

8           12. COMPLETION OF PROBATION Upon successful completion of  
9 probation, respondent's certificate shall be fully restored.

10           13. VIOLATION OF PROBATION If respondent violates  
11 probation in any respect, the Division, after giving respondent  
12 notice and the opportunity to be heard, may revoke probation and  
13 carry out the disciplinary order that was stayed. If an accusation  
14 or petition to revoke probation is filed against respondent during  
15 probation, the Division shall have continuing jurisdiction until  
16 the matter is final, and the period of probation shall be extended  
17 until the matter is final.

18           14. COST RECOVERY The respondent is hereby ordered to  
19 reimburse the Division the amount of two thousand five hundred  
20 dollars (\$2,500) within ninety (90) days of the effective date of  
21 this decision for its investigative and prosecution costs. Failure  
22 to reimburse the Division's cost of investigation and prosecution  
23 shall constitute a violation of the probation order, unless the  
24 Division agrees in writing to payment by an installment plan  
25 because of financial hardship. The filing of bankruptcy by the  
26 respondent shall not relieve the respondent of his responsibility  
27

1 to reimburse the Division for its investigative and prosecution  
2 costs, nor shall this condition be subject to the tolling  
3 provisions set forth in paragraph 11, above.

4           15. PROBATION COSTS       Respondent shall pay the costs  
5 associated with probation monitoring each and every year of  
6 probation, which are currently set at \$2,304, but may be adjusted  
7 on an annual basis. Such costs shall be payable to the Division of  
8 Medical Quality and delivered to the designated probation  
9 surveillance monitor at the beginning of each calendar year.  
10 Failure to pay costs within 30 days of the due date shall  
11 constitute a violation of probation.

12           16. LICENSE SURRENDER   Following the effective date of  
13 this decision, if respondent ceases practicing due to retirement,  
14 health reasons or is otherwise unable to satisfy the terms and  
15 conditions of probation, respondent may voluntarily tender his  
16 certificate to the Board. The Division reserves the right to  
17 evaluate the respondent's request and to exercise its discretion  
18 whether to grant the request, or to take any other action deemed  
19 appropriate and reasonable under the circumstances. Upon formal  
20 acceptance of the tendered license, respondent will not longer be  
21 subject to the terms and conditions of probation.

#### 22                           CONTINGENCY

23           This stipulation shall be subject to the approval of the  
24 Division. Respondent understands and agrees that Board staff and  
25 counsel for complainant may communicate directly with the Division  
26 regarding this stipulation and settlement, without notice to or  
27

1 participation by respondent or his counsel. If the Division fails  
2 to adopt this stipulation as its Order, the stipulation shall be of  
3 no force or effect, it shall be inadmissible in any legal action  
4 between the parties, and the Division shall not be disqualified  
5 from further action in this matter by virtue of its consideration  
6 of this stipulation.

7  
8 ACCEPTANCE

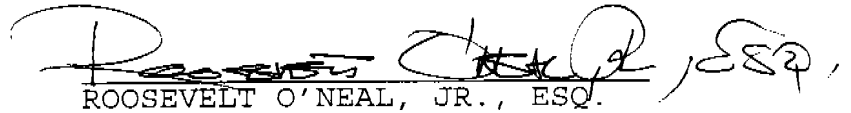
9 I have read the above Stipulated Settlement and  
10 Disciplinary Order. I have fully discussed the terms and  
11 conditions and other matters contained therein with my attorney,  
12 Roosevelt O'Neal, Jr., Esq. I understand the effect this  
13 Stipulated Settlement and Disciplinary Order will have on my  
14 certificate, and agree to be bound thereby. I enter this  
15 stipulation freely, knowingly, intelligently and voluntarily.

16 DATED: 4-7-97.

17  
18   
19 ROSCOE BERNARD MARTIN, M.D.  
Respondent

1 I have read the above Stipulated Settlement and  
2 Disciplinary Order and approve as to form and content. I have  
3 fully discussed the terms and conditions and other matters therein  
4 with respondent Roscoe Bernard Martin, M.D.

5 DATED: 4.7.97.

6  
7   
8 ROOSEVELT O'NEAL, JR., ESQ.

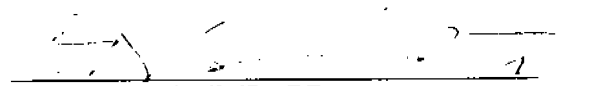
9 Attorney for Respondent

10  
11  
12  
13  
14 **ENDORSEMENT**

15 The foregoing Stipulated Settlement and Disciplinary  
16 Order is hereby respectfully submitted for the consideration of the  
17 Division of Medical Quality, Medical Board of California,  
18 Department of Consumer Affairs.

19 DATED: 4-7-97.

20  
21 DANIEL E. LUNGREN, Attorney General  
22 of the State of California

23   
24 FRED A. SLIMP II  
25 Deputy Attorney General

26 Attorneys for Complainant  
27

# EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 GAIL M. HEPPELL,  
Supervising Deputy Attorney General  
3 FRED A. SLIMP II  
Deputy Attorney General  
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Telephone: (916) 324-7861  
6 FAX: (916) 324-5567

7 Attorneys for Complainant

**FILED**  
**STATE OF CALIFORNIA**  
**MEDICAL BOARD OF CALIFORNIA**  
**SACRAMENTO** *December 30, 1996*  
BY *Danila S. Masher* ANALYST

8  
9 **BEFORE THE**  
**DIVISION OF MEDICAL QUALITY**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation ) Case No. 02-96-68630  
Against: )

12 **ROSCOE BERNARD MARTIN, M.D.** )  
13 8052 Indian Creek Drive )  
14 Orangevale, CA 95662 )

**A C C U S A T I O N**

15 Physician's and Surgeon's )  
Certificate No. A-39017, )

16 Respondent. )  
17

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ronald Joseph, is the Executive  
21 Director of the Medical Board of California (hereinafter the  
22 "Board") and brings this accusation solely in his official  
23 capacity.

24 2. On or about August 23, 1982, physician's and  
25 surgeon's certificate number A-39017 was issued by the Board to  
26 Roscoe Bernard Martin, M.D. (hereinafter "respondent"), and at all  
27

1 times relevant to the charges brought herein, this license has been  
2 in full force and effect. Unless renewed, it will expire on  
3 October 31, 1997.

4 **JURISDICTION**

5 3. This accusation is brought before the Division of  
6 Medical Quality of the Medical Board of California, Department of  
7 Consumer Affairs (hereinafter the "Division"), under the authority  
8 of the following sections of the California Business and  
9 Professions Code (hereinafter "Code"):

10 A. Section 2227 of the Code provides that the Board may  
11 revoke, suspend for a period not to exceed one year, or place  
12 on probation, the license of any licensee who has been found  
13 guilty under the Medical Practice Act.

14 B. Section 2234(e) of the Code provides that the  
15 commission of any act involving dishonesty or corruption which  
16 is substantially related to the qualifications, functions, or  
17 duties of a physician and surgeon constitutes unprofessional  
18 conduct.

19 C. Section 2236(a) of the Code provides that a criminal  
20 conviction involving any offense substantially related to the  
21 qualifications, functions or duties of a physician and surgeon  
22 constitutes unprofessional conduct.

23 D. Section 2261 of the Code provides that knowingly  
24 making or signing any certificate or other document directly  
25 or indirectly related to the practice of medicine which  
26 falsely represents the existence or nonexistence of a state  
27

1 of facts constitutes unprofessional conduct.

2 E. Section 125.3 of the Code provides, in part, that  
3 the Board may request the administrative law judge to direct  
4 any licensee found to have committed a violation or  
5 violations of the licensing act, to pay the Board a sum not  
6 to exceed the reasonable costs of the investigation and  
7 enforcement of the case.

8 4. Section 16.01 of the 1996/97 Budget Act of the State  
9 of California provides, in pertinent part, that: (a) no funds  
10 appropriated by this act may be expended to pay any Medi-Cal  
11 claim for any service performed by a physician while that  
12 physician's license is under suspension or revocation due to  
13 a disciplinary action of the Medical Board of California; and  
14 (b) no funds appropriated by this act shall be expended to pay  
15 any Medi-Cal claim for any surgical service or other invasive  
16 procedure performed by a physician if that physician has been  
17 placed on probation due to a disciplinary action of the  
18 Medical Board of California related to the performance of that  
19 specific service or procedure on any patient, except in any  
20 case where the Board makes a determination during its  
21 disciplinary process that there exist compelling circumstances  
22 that warrant continued Medi-Cal reimbursement during the  
23 probationary period.

24 5. Respondent Roscoe Bernard Martin, M.D. is guilty of  
25 unprofessional conduct within the meaning of Code sections 2234(e),  
26 2236(a) and 2261 as more specifically alleged below.



1 **FIRST CAUSE FOR DISCIPLINE**

2 (Dishonest/Corrupt Act Substantially Related)  
3 [Bus. & Prof. Code § 2234(e)]

4 6. On or about December 3, 1992, respondent submitted  
5 a statement to the State Compensation Insurance Fund ("SCIF")  
6 concerning the medical condition of patient Martha T.<sup>1/</sup>In that  
7 statement, respondent knowingly stated falsely that Martha T. was  
8 first seen in his offices on or about November 3, 1992, complaining  
9 of neck, shoulder and upper back pain from a recently suffered  
10 industrial injury, and that her medical history was unremarkable.  
11 In reality Martha T. had been seen in respondent's offices from  
12 July, 1990 until at least October 28, 1992 for neck and back pain  
13 from an automobile collision on or about June 21, 1990. During the  
14 period July 30, 1990 to October 28, 1992 Martha T. was seen on 32  
15 occasions in respondent's offices for neck and back pain. Martha T.  
16 saw respondent on 12 occasions alone in October, 1992 for neck and  
17 back pain.

18 7. Respondent's conduct as set forth in paragraph 6,  
19 above, constitutes the commission of a dishonest or corrupt act  
20 substantially related to the qualifications, functions or duties of  
21 a physician and surgeon and therefore unprofessional conduct within  
22 the meaning of Code § 2234(e).

23 **SECOND CAUSE FOR DISCIPLINE**

24 (False Document Related to Medical Practice)

25  
26 1. The full names of all individuals named in the  
27 Accusation may be obtained by respondent upon the proper filing of  
a request for discovery.

1 [Bus. & Prof. Code § 2261]

2 8. Complainant realleges paragraph 6, above, and  
3 incorporates it by reference herein as though fully set forth at  
4 this point.

5 9. Respondent's conduct as set forth in paragraph 6,  
6 above, constitutes the knowing making of a document related to the  
7 practice of medicine that falsely represents the existence or  
8 nonexistence of a state of facts and therefore unprofessional  
9 conduct within the meaning of Code § 2261.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Conviction of Offense Substantially Related)  
12 [Bus. & Prof. Code § 2236(a)]

13 10. Complainant realleges paragraph 6, above, and  
14 incorporates it by reference herein as though fully set forth at  
15 this point.

16 11. On or about November 30, 1996 a criminal complaint  
17 in People of the State of California v. Martin and Torres,  
18 Sacramento County Superior Court Case No. 95F09956, was filed  
19 against respondent alleging a felony violation of Insurance Code §  
20 1871.4(a)(2), willful presentation of a knowingly false and  
21 fraudulent written statement in support of a claim for compensation  
22 for the purpose of obtaining workers' compensation insurance  
23 benefits. Thereafter on or about October 21, 1996, respondent pled  
24 nolo contendere to the felony violation and was convicted thereon.  
25 On or about October 29, 1996, respondent was placed on one (1) year  
26 probation with terms and conditions, and his conviction was reduced  
27

1 to a misdemeanor violation.

2           12. Respondent's conduct as set forth in paragraph 6,  
3 above, in conjunction with this conviction as set forth in  
4 paragraph 11, above, constitutes conviction of an offense  
5 substantially related to the qualifications, functions or duties of  
6 a physician and surgeon and therefore unprofessional conduct within  
7 the meaning of Code § 2236(a).

8                           **PRAYER**

9           **WHEREFORE** the complainant requests that a hearing be  
10 held on the matters herein alleged, and that following the hearing  
11 the Division issue a decision:

12           1. Revoking or suspending physician's and surgeon's  
13 certificate number A-39017 heretofore issued to respondent Roscoe  
14 Bernard Martin, M.D.;

15           2. Revoking, suspending or denying approval of  
16 respondent's authority to supervise physician assistants pursuant  
17 Code section 3527;

18           3. Ordering respondent to pay the Division the actual  
19 and reasonable costs of the investigation and enforcement of this  
20 case; and

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27

1                   4.    Taking such other and further action as the Division  
2 may deem necessary or proper.

3                   DATED: December 30, 1996

5                   

6                   \_\_\_\_\_  
7                   Ronald Joseph  
8                   Executive Director  
9                   Medical Board of California  
10                   Department of Consumer Affairs  
11                   State of California

12                   Complainant

13 forms\accuse [115 rev]